STATE OF MICHIGAN

COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN, Plaintiff-Appellee,	UNPUBLISHED September 21, 2010
v	No. 292313 Kent Circuit Court
TROY ROBERT BRAKE, Defendant-Appellant.	LC No. 08-011542-FC

Before: FITZGERALD, P.J., and MARKEY and BECKERING, JJ.

PER CURIAM.

A jury convicted defendant of assault with intent to murder, MCL 750.83, first-degree criminal sexual conduct, MCL 750.520b(1)(f), assault with a dangerous weapon, MCL 750.82, and possession of a firearm during the commission of a felony, MCL 750.227b. Defendant was sentenced to concurrent prison terms of 16 to 30 years for the assault with intent to murder conviction, 12 to 30 years for the first-degree criminal sexual conduct conviction, 2 to 4 years for the assault with a dangerous weapon conviction, and to a consecutive two year term for the felony-firearm conviction. Defendant appeals as of right. We affirm.

Defendant argues that his actions were a drunken attempt to retaliate for what he believed was a robbery attempt, and that the primary goal of his actions was to silence the victim. He asserts that the evidence does not support a finding that he had the intent to kill. We review de novo the question whether there was sufficient evidence to support the verdict by viewing the evidence in a light most favorable to the prosecution to determine whether a rational trier of fact could find that the essential elements of the crime were proved beyond a reasonable doubt. *People v Herndon*, 246 Mich App 371, 415; 633 NW2d 376 (2001). Intent may be inferred from minimal circumstantial evidence and the reasonable inferences that arise from the evidence. *People v Hawkins*, 245 Mich App 439, 458; 628 NW2d 105 (2001). Violence and multiple wounds resulting from an attack can support a finding of intent to kill. *People v Hoffmeister*, 394 Mich 155, 160; 229 NW2d 305 (1975).

The victim testified that after defendant picked her up for an act of prostitution and drove to a location the victim suggested, defendant did not want to go inside and started acting strangely. Defendant agreed to take the victim back to where he first picked her up, but instead he chose to stop at another location where he began a brutal attack on her. During the attack, in response to the victim's screams, defendant stated, "Are you stupid or what? I got a gun to your head, I'll kill you." The brutality of the attack, along with defendant's statement, by itself could

lead to a reasonable inference that defendant intended to kill the victim. *Id*. In addition, the use of a dangerous or lethal weapon supports an inference that there was intent to kill. *People v Martin*, 392 Mich 553, 561; 221 NW2d 336 (1974), overruled in part on other grounds *People v Woods*, 416 Mich 581; 331 NW2d 707 (1982); *People v Ray*, 56 Mich App 610, 615; 224 NW2d 735 (1974). The record clearly reflects that defendant possessed and used a gun during the attack. In addition, defendant possessed ample ammunition to reflect that he was fully prepared to execute his intent to kill by using the gun to shoot and kill the victim. Viewed in a light most favorable to the prosecution, the evidence was sufficient to allow a reasonable fact-finder to find beyond a reasonable doubt that defendant had the intent to kill the victim. *Herndon*, 246 Mich App at 415.[1]

Defendant also argues that he was too intoxicated to manifest the intent necessary to support a conviction for assault with the intent to murder. "Assault with intent to murder is a specific-intent crime." *People v Triplett*, 105 Mich App 182, 187; 306 NW2d 442 (1981). Voluntary intoxication is a defense to specific intent crimes. MCL 768.37(1), (2); *People v Henry*, 239 Mich App 140, 146; 607 NW2d 767 (1999). However, in order for voluntary intoxication of alcohol to be a defense to a specific intent crime, a defendant must prove by a preponderance of the evidence that he voluntarily consumed the alcohol "and did not know and reasonably should not have known that he . . . would become intoxicated or impaired." MCL 768.37(2). In this case, no evidence was presented at trial to show that defendant did not know and reasonably should not have known that he would become intoxicated or impaired by alcohol, which he apparently ingested voluntarily. MCL 768.37(2). Consequently, defendant's argument that he was too drunk to manifest the requisite intent lacks merit.

Affirmed.

/s/ E. Thomas Fitzgerald
/s/ Jane E. Markey
/s/ Jane M. Beckering

[1] Defendant argues that the evidence of intent to kill was insufficient in light of defendant's testimony that he was not intending to kill the victim. Defendant's argument is misplaced. The jury was free to reject defendant's testimony in this regard, *People v Roper*, 286 Mich App 77, 88; 777 NW2d 483 (2009), citing *People v Wolfe*, 440 Mich 508, 514-515; 489 NW2d 748 (1992), amended 441 Mich 1201 (1992), and it was the jury's duty to weigh the evidence and draw inferences. *Hardiman*, 466 Mich at 429.